

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Repeal of Chapter 17-526 and
Adoption of Chapter 15-186,
Hawaii Administrative Rules

_____, 2003

1. Chapter 17-526, Hawaii Administrative Rules, is repealed.
2. Chapter 15-186, Hawaii Administrative Rules, entitled "State-Aided Elderly Public Housing Projects" is adopted.

PUBLIC HEARING DRAFT 5/03

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

SUBTITLE 14

HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII

CHAPTER 186

STATE-AIDED ELDERLY PUBLIC HOUSING PROJECTS

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Historical Note: This chapter is substantially based upon Chapter 17-535, Hawaii Administrative Rules. [Eff 6/13/96; am and comp 5/26/98]

SUBCHAPTER 1

GENERAL PROVISIONS

§15-186-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the admission to and the continued occupancy of state-aided elderly public housing projects owned or operated by the housing and community development corporation of Hawaii.
[Eff _____] (Auth: HRS §201G-4)
(Imp: HRS chapter 201G)

§15-186-2 Definitions. As used in these rules, except otherwise required by context:

"Accessible dwelling unit" means an apartment which is located on an accessible route and when

designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities or an apartment which meets the requirements of applicable standards that address the particular disability or impairment of an individual.

"Adjusted income" means annual income less the following deductions:

(a) For any elderly family that has no disability assistance expenses, an allowance for medical expenses equal to the amount by which the medical expenses exceed three percent of annual income;

(b) For an elderly family that has disability assistance expenses greater than or equal to three percent of annual income, an allowance for disability assistance expenses computed in accordance with paragraph (c) of this section, plus an allowance for medical expenses that is equal to the family's medical expenses; or

(c) For an elderly family that has disability assistance expenses that are less than three percent of annual income, an allowance for combined disability assistance expenses and medical expenses that is equal to the amount by which the sum of these expenses exceeds three percent of annual income.

"Annual income" means all income from any source before deductions or exemptions, anticipated to be received during the twelve month period following admission or redetermination of annual income, as the case may be, by all persons occupying, or who are temporarily separated from the household. Annual income does not include amounts specifically paid to the household for or in reimbursement of the cost of medical expenses for any household member.

"Applicant" means a person or a family that has applied for housing assistance.

"Assets" or "net family assets" means net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles shall be excluded. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income

distributed from the trust fund shall be counted when determining annual income.

"Corporation" means the housing and community development corporation of Hawaii.

"Disability" means having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment. The term does not include current illegal use or addiction to a controlled substance or alcohol or drug abuse that threatens the property or safety of others.

"Dwelling unit" means a residential unit in a housing project.

"Elder" or "elderly" means a person who is a resident of the State and has attained the age of sixty-two years.

"Elder or elderly household" means a household in which at least one member is sixty-two years of age, the spouse or partner has attained the age of majority, and the remaining members have attained the age of fifty-five years at the time of application to the project. A live-in aide shall cease to be a resident therein upon the recovery of, or removal from the project of, the elder.

"Elder or elderly housing" means:

- (1) A housing project intended for and occupied by elder or elderly households; or
- (2) Housing provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elder or elderly persons, or if the Secretary makes a determination, the project may also be occupied by persons with disabilities who have reached the age of majority.

"Housing projects" means those rental projects owned and operated or both, by the corporation.

"HRS" means the Hawaii Revised Statutes.

"HUD" means the United States Department of Housing and Urban Development.

"Live-in aide" means a person who:

- (1) Is eighteen years of age or older;

- (2) Is living in the unit solely to assist the elder or elderly person in daily living activities including bathing, meal preparation and delivery, medicinal care, transportation, and physical activities;
- (3) Is not legally obligated to support the elder or elderly person; and
- (4) Is verified by the corporation as meeting these requirements.

"Refusal of an offer" means an applicant declines an offer made by the corporation for a specific unit from any waiting list or an applicant's failure to respond to a written offer from the corporation for a specific unit within the time specified in the offer.

"Rent" means the monthly charge to a tenant for the use of a dwelling unit.

"Rental agreement" means the agreement containing the conditions of occupancy entered into by the tenant and corporation.

"Resident" means a U.S. citizen or a permanent U.S. resident who is able to demonstrate his or her intent to reside in Hawaii. Intent to reside in Hawaii may be demonstrated by the following: length of time spent in Hawaii; leasing or renting of a home in Hawaii; filing of personal Hawaii income tax returns; registering to vote in Hawaii; Hawaii driver's license; record of Hawaii motor vehicle registration; notification of hire to work in Hawaii; records of employment in Hawaii; military records substantiating Hawaii residency; establishment of bank accounts and other accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent to reside.

"Security deposit" means a deposit required of each tenant prior to admission for the cost of loss or damage of the corporation's property (responsible wear and tear excepted) and non-payment of rent.

"Staff" means the employees or agents of the corporation.

"State-aided elderly public housing projects" means the elderly housing projects which are owned by the corporation including Hale Po'ai, Laiola, Kamalu, Hoolulu, and Halia Hale.

"Tenant" means the person or persons who enter into a rental agreement with the corporation for a dwelling unit.

"U.S.C." means the U.S. Code.

"Veteran" means any person who has served in any of the armed services of the United States, or any person who is now a citizen of the United States who has served in any of the armed services of any country which was an ally of the United States in any war or campaign in which the United States was also engaged in. "Veteran" includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term "veteran" includes Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFFE), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have: served at any time between September 1, 1869, and December 31, 1946; been born in the Philippines; and resided in the Philippines prior to the military service. [Eff] (Auth: HRS §§201G-4, 201G-41) (Imp: HRS §§201G-4, 201G-32)

§15-186-3 Income limits. Admission to a housing project is based on the applicant's or tenant's adjusted household income which shall not exceed sixty percent of the median income limits as most recently determined by the calculation using the method set forth in Exhibit 1, dated _____, 2003, located at the end of this chapter. [Eff] (Auth: HRS 201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-4 Asset transfers. (a) All assets transferred or assigned to another person, within a twenty-four month period prior to submitting an application, shall be included in determining an applicant's assets.

(b) The value of the assets shall be based on the fair market value. [Eff _____](Auth: HRS 201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-5 Occupancy standards. Applicant and tenant shall abide by the occupancy standards for the admission and continued occupancy in housing projects as prescribed by Exhibit 2, entitled OCCUPANCY GUIDELINES, a copy of which is attached, dated _____, 2003, and located at end of this chapter. [Eff _____](Auth: HRS 201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-6 Verification of information. An applicant or tenant shall provide documentation to verify information upon request of the staff. [Eff _____](Auth: HRS 201G-4) (Imp: HRS §201G-4, 201G-32)

§15-186-7 Misrepresentation. An applicant may be denied admission to a housing project or a tenant's rental agreement may be terminated if the applicant or tenant has submitted false information, withheld information, or made willful misstatements. [Eff _____](Auth: HRS 201G-4) (Imp: HRS §§201G-4, 201G-32)

SUBCHAPTER 2

ELIGIBILITY

§15-186-20 Applicants. (a) A person seeking admission to a housing project shall:

- (1) Be a resident of the State of Hawaii;
- (2) Not have previously lived in a housing project and been evicted from the project since March 1, 1985;
- (3) Not have an outstanding debt owed to the corporation as a participant in any of its programs; and

- (4) Meet the occupancy standards as set forth in Exhibit 2, entitled OCCUPANCY STANDARDS, a copy of which is attached, dated _____, 2003, and located at the end of this chapter.
- (b) A person seeking admission to a housing project must submit a completed application form as used by the corporation. The applicant is permitted to file at any of the corporation's in-take offices an application for any and all waiting lists prescribed in section 15-186-31.
- (c) An applicant who has misrepresented material information shall not be eligible to file an application with the corporation for twelve months from the date of written notification from the corporation.
[Eff _____] (Auth: HRS 201G-4) (Imp: HRS 201G-4)

§15-186-21 Eligibility for admission. To be eligible for admission to a housing project, an applicant and household members shall meet the requirements set forth in section 15-186-20, and shall:

- (1) Qualify as an elderly family;
- (2) Have an income which does not exceed the applicable income limit;
- (3) Have assets which do not exceed the applicable limit;
- (4) Not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land on or after _____, 2003;
- (5) Not have a record of conduct or behavior within three years of the projected date of admission which may be detrimental to the project, its tenants, or employees;
- (6) Not have a recent history of criminal activity involving crimes to persons or property or other criminal acts that may adversely affect the health, safety, or right

to peaceful enjoyment of the premises by other residents. For purposes of this subsection, in determining eligibility, the corporation shall consider whether a person convicted for such a crime has successfully completed a rehabilitation program approved by the corporation, or whether the circumstances leading to the criminal conviction no longer exists;

- (7) Not have been evicted from any of the corporation's housing programs for drug-related criminal activity for three years. For the purposes of this subsection, in determining eligibility, the corporation shall consider whether the evicted applicant or household member has successfully completed a rehabilitation program approved by the corporation, or whether the circumstances leading to eviction no longer exist. This subsection does not apply to an applicant or household member ineligible under section 15-186-20(a)(2);
- (8) Not engage in any drug-related criminal activity or violent criminal activity. For the purposes of this subsection, "violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another;
- (9) Not engage in the illegal use of a controlled substance or give the corporation reasonable cause to believe that the illegal use of a controlled substance, pattern of illegal use, abuse of alcohol, or pattern of abuse may interfere with the health, safety of the residents, or right to peaceful enjoyment of the premises by other residents;
 - (A) For the purposes of this subsection, "reasonable cause to believe" means by a preponderance of the evidence;
 - (B) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of illegal use of a

controlled substance or a pattern of abuse of alcohol, the corporation may consider rehabilitation as provided for under 42 USC §13661(b)(2)(A)-(C), effective October 1, 1999, a copy of which is attached as Exhibit 4, dated _____, 2003, located at the end of this chapter;

- (10) Not be subject to any life time requirement in any state for any state sex offenders program.
- (11) Provide a social security number for all household members or certify that the person does not have a social security number; and
- (12) Furnish evidence that the applicant is a citizen of the United States or a resident alien. [Eff _____] (Auth 42 USC §§ 13661 (b)(2)(A)-(C); HRS §201G-4) (Imp: 24 HRS §§201G-4, 201G-32)

§15-186-22 Notification of eligibility. (a) An applicant shall be notified in writing by the staff as to the applicant's eligibility after a determination is made and the notification shall specifically state the reasons for determination.

(b) An eligible applicant shall be placed on a waiting list.

(c) An ineligible applicant may request an informal hearing within fourteen days after date of the written notification. The informal hearing shall be conducted by someone other than the person or the person's subordinates who made or approved the decision.

[Eff _____] (Auth: HRS 201G-4) (Imp: HRS §§201G-17, 201G-17)

SUBCHAPTER 3

TENANT SELECTION

§15-186-30 Nondiscrimination. Tenant selection and assignment shall be made without regard to race,

sex, color, religion, marital status, familial status, ancestry, disability, or HIV (human immunodeficiency virus) infection. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§515-3; HRS §§201G-4, 201G-32)

§15-186-31 Waiting list. (a) The corporation shall maintain a waiting list of all apparently eligible applicants for each of the following geographic locations:

- (1) Urban Honolulu;
- (2) Central Oahu/Wahiawa; and
- (3) Central Oahu/Waipahu.

(b) Applicants shall be notified of the opportunity to apply for and be placed on any and all waiting lists through notices posted in a conspicuous place at the corporation's offices which accept applications and a printed statement in the corporation's informational material on its application process.

(c) Placement of applicants on the waiting list shall be based upon the following:

- (1) Geographic location;
- (2) Size of dwelling unit required based on occupancy standards;
- (3) Type of dwelling unit required (e.g., accessible for persons with disabilities);
- (4) Date and time of application's receipt.

(d) An applicant must notify the corporation of any change, which will affect applicant's place on the waiting list and the corporation's ability to contact applicant. Changes include, but are not limited to, family status, financial status, mailing address, and current residence.

(e) An applicant may continue to be on the waiting list even though applicant is a tenant in or receiving housing assistance from another housing program. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-32 Removal from waiting list. An applicant shall not be removed from the waiting list unless:

- (1) The applicant requests that applicant's name be removed;
 - (2) The applicant fails to notify the corporation of applicant's continued interest for housing at least once every twelve months;
 - (3) The applicant no longer meets the eligibility criteria set forth in section 15-186-21;
 - (4) The applicant fails to respond to the corporation's reasonable contact efforts. Correspondence to the last known address will constitute reasonable effort to contact;
 - (5) The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility; or
 - (6) The applicant misrepresents any material information to the corporation in the application or otherwise.
- [Eff] (Auth: HRS §201G-4)
(Imp: HRS §201G-32)

§15-186-33 Closing the waiting list. (a) The corporation, at its discretion, may restrict acceptance of applications, and close the waiting list in whole or in part, when it determines that it will be unable to assist all the applicants on the waiting list within a reasonable period of time.

(b) The corporation shall publicly announce any closure and reopening of the application process.

(c) During periods when application acceptance is closed and until it is reopened, the corporation shall not maintain a list of persons to be notified when application acceptance is reopened..[Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-34 Offers. (a) An applicant shall be afforded only one offer to rent a suitable unit. The offer shall be based on what is available in a requested housing project on the day of the offer. If there is more than one suitable unit available on the day of the offer, the unit offered shall be the one with the earliest vacancy date.

(b) Offers to eligible applicants shall be made in sequence based upon the following:

- (1) Geographic location;
- (2) Size of dwelling unit required;
- (3) Type of dwelling unit required (e.g. accessible units for the mobility, hearing or visually impaired);
- (4) Factors affecting priorities and preferences as established by the corporation;
- (5) Date and time the application was received.

(c) Upon refusal of an offer, without good cause, the applicant's name will be moved to the bottom of all waiting lists on which the applicant's name has been placed.

(d) An applicant shall not be considered to have been offered a unit if an offer has been declined for good cause. Good cause may include, but is not limited to the following:

- (1) The unit is not of the proper size or type and the applicant would be able to reside there only temporarily (e.g. a specially designed unit that is awaiting a person with disabilities applicant needing such a unit);
- (2) The unit offered is unsuitable for health or safety reasons for the applicant;
- (3) The applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the corporation's satisfaction, such as:
 - (A) A doctor verifies that the applicant has just undergone major surgery and needs a period to recuperate;
 - (B) A court verifies that the applicant is serving on a jury which has been sequestered;
 - (C) A landlord verifies that the applicant has an existing lease that cannot breach without causing undue financial hardship.
- (4) The applicant's acceptance of the offer would result in undue hardship not related to consideration of race, color, national origin, or language and the applicant presents evidence which substantiates this to

the corporation's satisfaction (e.g. where current employment or day care facilities are inaccessible). [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-35 Occupancy of accessible dwelling units. The corporation shall take the following nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit.

(a) When an accessible unit becomes vacant the corporation shall, before offering such units to an applicant without disabilities, offer the unit:

- (1) First, to a current occupant of another unit of the same project or other projects within the same housing program, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then
- (2) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

(b) When an applicant who is not disabled accepts a unit with accessibility features, the applicant shall transfer to a non-accessible unit when one becomes available. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-32, 201G-4)

SUBCHAPTER 4

OCCUPANCY AND RENTAL AGREEMENT

§15-186-40 Rental agreement (a) A tenant shall enter into a rental agreement with the corporation which sets forth the conditions of occupancy for the tenant.

(b) No tenant shall be permitted to remain in a housing project without a valid rental agreement. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-41 Eligibility for continued occupancy.

- (a) To be eligible for continued occupancy in an elderly housing project, the tenant shall:
- (1) Qualify as an elderly household;
 - (2) Conform to the occupancy standards;
 - (3) Not have a record of conduct or behavior which may be detrimental to the project, its tenants or employees; and
 - (4) Not have an adjusted income which exceeds the applicable income limits for continued occupancy which are set forth in section 15-186-3. [Eff] (Auth: HRS §§201G-4, 201G-32) (Imp: HRS §§201G-4, 201G-32)

§15-186-42 Reexamination. At least once every twelve months, the corporation shall reexamine a tenant's annual income, assets, family composition, and any other matter necessary to determine a tenant's rent and eligibility for continued occupancy. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-17)

§15-186-43 Reexamination results. (a) A tenant shall be given written notification within a reasonable time, after determination by the staff, of both the tenant's eligibility for continued occupancy and rent schedule.

(b) A tenant found ineligible for continued occupancy by the staff shall be required to vacate the dwelling unit.

(c) A tenant aggrieved by the reexamination results may request a hearing pursuant to the corporation's grievance procedure as provided in section 15-183, HRS. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-44 Special reexamination. If at the time of admission or reexamination, a family's income cannot be reasonably determined for the next twelve months, a special reexamination shall be scheduled within three

months. [Eff] (Auth: HRS §201G-4)
(Imp: HRS §§201G-4, 201G-32)

§15-186-45 Interim rent adjustment. (a) If applicable, the corporation may adjust a tenant's rent between reexamination if a tenant reports a change in family income.

(b) Adjustments, reflecting a lower rent, shall be made effective on the first of the month following the month the report was made.

(c) A tenant who has obtained a decrease in rent under this section, shall report all income increases which occur prior to the next reexamination and rent shall be readjusted accordingly. Any increase in rent shall be effective on the first day of the second month following the month in which the change occurred.

(d) A tenant who fails to report any increase in income after obtaining a decrease in rent under this section shall be subject to a back rent charge retroactive to the month in which the rent increase should have been made.

(e) Rent adjustment shall be made between reexaminations when a person with income is added to the family and the rent adjustment shall be effective on the first of the second month following the approved inclusion. [Eff] (Auth: HRS §201G-4)
(Imp: HRS §§201G-4, 201G-32)

§15-186-46 Tenant transfers. (a) Tenant transfers will be made without regard to race, sex, color, religion, marital status, familial status, ancestry, disability, or HIV (human immunodeficiency virus) infection.

(b) The corporation may transfer a tenant to another dwelling unit:

- (1) To prevent overcrowding or under utilization of a dwelling unit as determined by the corporation at the time of the annual or interim reexamination;
- (2) To preserve the purpose for which a project or unit was specifically developed or

designed such as to meet the needs of the elderly, or a person with disabilities;

- (3) To meet a verifiable health or safety need; or
- (4) For economic reasons affecting the tenant or the corporation.

(c) Tenant transfers shall take priority over new admissions.

(d) Tenant shall be afforded one offer to transfer to a unit that meets the criteria set forth in subsection (b) within the same housing project in which the tenant resides. If such unit is not available, tenant may then be offered a unit in another housing project under the control of the management unit. If such a unit is not available, tenant may then be offered a suitable unit on the island on which tenant resides. Declining an offer to transfer for good cause as determined by the corporation shall not be considered a refusal.

(e) Tenant shall not be transferred during periods when eviction proceedings have been initiated or are in process against such tenant or during any period of conditional deferment of eviction action against such tenant.

(f) Tenant who is not current with rent or other charges and who does not have an approved payment arrangement will not be transferred until the situation is resolved to the satisfaction of the corporation.

(g) The corporation may terminate the rental agreement of a tenant who refuses to transfer as required by the corporation. [Eff]
(Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-47 Backcharges. A tenant shall pay in full any backcharges within one hundred eighty days after being notified by the staff of the backcharge. Failure to do so shall result in the termination of the rental agreement for non-payment of rent. [Eff] (Auth: HRS §201G-4) (Imp: HRS §§201G-4, 201G-32)

§15-186-48 Rental agreement termination. (a) A tenant shall give the corporation at least twenty-eight

days written notice that the tenant will vacate the tenant's unit prior to the vacate date.

(b) The corporation may terminate a rental agreement when a tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

- (1) Fails to observe or perform any covenant or obligation of the rental agreement, or rule of the corporation or housing project, or law or ordinance of a governmental agency that pertains to or establishes standards of occupancy;
- (2) Engages in the illegal use of a controlled substance;
- (3) Whose illegal use of a controlled substance, or abuse of alcohol, is determined by the corporation to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- (4) Who the corporation determines engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (5) Who the corporation determines engages in any drug-related criminal activity on or off the corporation's property.

(b) The corporation shall give a tenant written notice of the proposed termination of the rental agreement of not less than:

- (1) Fourteen days in the case of failure to pay rent;
- (2) A reasonable time commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or project employees;
- (3) Thirty days in all other cases.

(d) The corporation shall terminate a rental agreement in accordance with chapter 201G, HRS. [Eff] (Auth: 42 USC §§13661 (b)(2)(A)-(C); HRS §201G-4) (Imp: HRS §201G-4)

SUBCHAPTER 5
RENTS AND SECURITY DEPOSITS

§15-186-60 Security deposits. A tenant shall pay a security deposit, prior to admission to a housing project, in an amount not to exceed one month's rent. The security deposit may be applied to rent or used to repay charges owed to the corporation upon the termination of the rental agreement. [Eff]
(Auth: HRS §201G-4) (Imp: HRS §521-44)

§15-186-61 Minimum rents. (a) In state-aided elderly public housing projects, the minimum rent shall be based upon the number of bedrooms in the dwelling unit.

(b) Exhibit 3 entitled MINIMUM RENTS FOR STATE-AIDED ELDERLY PROJECTS, a copy of which is attached, dated _____, and located at the end of this chapter sets forth the minimum rents. [Eff]
(Auth: HRS §§201G-4, 201G-44, 359-34) (Imp: HRS §§359-11, 359-38)

§15-186-62 Rent. A tenant shall pay 30 percent of adjusted annual income for rent or a minimum rent, as set forth in 15-186-61, whichever is greater. [Eff]
(Auth: HRS §§201G-4, 359-34) (Imp: HRS §§359-11, 359-38)

SUBCHAPTER 6
MISCELLANEOUS PROVISIONS

§15-186-70 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other

persons or transactions or circumstances, shall not be
affected. [Eff] (Auth: HRS §201G-4)
(Imp: HRS §1-23)

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

The repeal of Chapter 17-526, Hawaii Administrative Rules, and the adoption of Chapter 15-186, Hawaii Administrative Rules, on the Summary page dated _____, 2003, was adopted on _____, 2003, following public hearings held on May 12, 2003, after public notice was given in the Honolulu Star Bulletin, Hawaii Tribune Herald, West Hawaii Today, Maui News, and Garden Island on _____, 2003.

The repeal and adoption shall take effect ten days after filing with the Office of the Lieutenant Governor.

CHARLES A. STED, Chairperson
Housing and Community
Development Corporation
of Hawaii

LILLIAN B. KOLLER, ESQ.
Director of Human
Services

APPROVED AS TO FORM:

Deputy Attorney General

LINDA LINGLE
Governor
State of Hawaii

Date:

Filed

Income Limits

Income limits are calculated using a set of formula relationships. The first step in calculating the income limits is to calculate a four-person income limit equal to 50 per cent of the estimated area median income (or very low-income limit) which is determined by the U.S. Department of Housing and Urban Development. The HUD estimates of median family income are based on the most recent census data estimates updated with a combination of local Bureau of Labor statistics data and census divisional data. Separate median family income estimates are calculated for all Metropolitan Statistical Areas, Primary Metropolitan Statistical Areas and Metropolitan Counties.

More specifically, the very low-income limit for a four-person family is calculated as follows:

1. 50 per cent of the area median family income is calculated and set as the preliminary four-person family income limit;
2. If it is lower, the four-person income limit is increased to the amount at which 35 per cent of it equals 85 per cent of the annualized two-bedroom Section 8 FMR (this adjusts income limits upward for areas where rental housing costs are unusually high in relation to the median income).
3. If it is higher, the four-person income limit is reduced to the amount at which 30 per cent of it equals 120 per cent of the two-bedroom FMR (this adjusts income limits downward for areas where rental housing costs are unusually low in relation to the median income);
4. To minimize program management problems, income limits are being held at the most recent fiscal year levels in areas where the FMR reductions would have resulted in lower income limits; and
5. In no instance are income limits less than if based on the State non-metropolitan median family income level.

60 Percent of Median Income Limits

The 60 percent income limits are calculated as 120 percent of the very low-income limits.

Family Size Adjustments:

Family size adjustments are made to provide higher income limits for larger families and lower income limits for smaller families. The factors used are as follows:

Number of Persons in Family and Percentage Adjustments

1	2	3	4	5	6	7	8
70%	80%	90%	Base	108%	116%	124%	132%

Income limits for families with more than eight persons are not included in the printed lists because of space limitations. For each person in excess of eight, 8 percent of the four-person base should be added to the eight-person income limit. (For example, the nine-person limit equals 140 percent [132 + 8] of the relevant four-person income limit.) All income limits are rounded to the nearest \$50 to reduce administrative burden.

Income Limits for Admissions and Continued Occupancy

Based upon the foregoing methodology, the following table sets forth the calculated income limits for admissions and continued occupancy in State-aided elderly public housing. These income limits are adjusted periodically whenever the HUD estimates of area median income are revised and are, therefore, subject to change.

Income and Asset Limits for Admission
(Effective _____)

	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
City & County of Honolulu	\$27,360	\$31,320	\$35,220	\$39,120	\$42,240	\$45,360	\$48,480	\$51,660
County Of Hawaii	23,160	26,460	29,760	33,060	35,700	38,340	40,980	43,620
County Of Kauai	27,120	31,020	34,860	38,760	41,880	44,940	48,060	51,180
County of Maui	28,500	32,580	36,660	40,740	43,980	47,280	50,520	53,760

OCCUPANCY GUIDELINES
 _____ 2003

In determining the appropriate dwelling unit size for assistance, the following criteria shall be applied:

1. The smallest unit suitable for the household shall be considered and each bedroom shall be occupied by at least one person.
2. The dwelling unit shall permit up to the maximum number of persons to occupy the unit in accordance with prevailing zoning, and county building, health, and fire codes.
3. Residential Occupancy Standards shall be:
 - I. City and County of Honolulu (Oahu)
 Revised Ordinances of the City and County of Honolulu, 1990, Chapter 27, Housing Code, Sec. 27-4.3(b) and (c)
 - A. One (1) or more rooms
 1. A room for living purposes (minimum 120 square feet (sq. ft.))
 2. Other habitable room (minimum 70 sq. ft.) excludes kitchen
 3. Add 50 square feet for each occupant in excess of two.

For example:

Floor Area (sq. ft.)	# of Occupants
70	2
120	3
170	4
220	5
270	6
330	7

- B. Efficiency Units (Studios)
 1. A living room (minimum 220 sq. ft.)
 -must have a separate closet,
 kitchen sink, cooking appliance,
 separate bathroom and refrigeration

facilities; each having a clear working space of not less than 30 inches in front, and

2. Add 100 sq. ft., for each occupant in excess of two.

For example:

Floor Area (sq. ft.)	# of Occupants
220	2
320	3
420	4
520	5

II. County of Maui (Maui, Lanai and Molokai)
County of Maui, Chapter 16.08 Housing Code,
Sec. 16.08.080 (B) and (C)

A. One (1) or more rooms

1. A room for living purposes (minimum 120 sq. ft.)
2. Every room used for both cooking/living or living/sleeping purposes shall have a room used for sleeping purposes (minimum size is 120 sq. ft.).
3. Every other room used for sleeping purposes (minimum 70 sq. ft. for 1st occupant).
4. And add 50 sq. ft. for each additional occupant.

For example:

Floor Area (sq. ft.)	# of Occupants
70	1
120	2
170	3
220	4

B. Efficiency Units (Studios)

1. A living room (minimum 220 sq. ft.)
-must have a separate dressing

closet, kitchen sink, bathroom, kitchenette (no less than 3x5 feet in size and equipped with a tenant-operated electric exhaust fan connected to the outside air, sink, cooking appliance and refrigeration facilities.

2. Add 100 sq. ft., for each occupant in excess of two.

For example:

Floor Area (sq. ft.)	# of Occupants
220	2
320	3
420	4
520	5

III. County of Kauai (Kauai)

Kauai County Code, Title V. Building and Construction Regulations, Chapter 12, Building Code, adopted 1997 Uniform Building Code (1997 UBC)

- A. Dwelling units and congregate residences
 1. One room (minimum 120 sq. ft.)
 2. Other habitable rooms (excludes kitchen) (minimum 70 sq. ft.).

Note: 1997 UBC does not address # of occupants allowable per square footage.

- B. Efficiency Units (Studios)
 1. A living room (minimum 220 sq. ft.) -must have a separate closet, kitchen sink, cooking appliance, separate bathroom, and refrigeration facilities; each having a clear working space of not less than 30 inches in front); and
 2. Add 100 sq. ft., for each occupant in excess of two.
For example:

Floor Area (sq. ft.)	# of Occupants
220	2
320	3
420	4
520	5

IV. County of Hawaii (Big Island)
Adopted 1991 Uniform Building Code, Occupant
Load, Sec. 3302

8. A. Occupancy Load factor - 300 sq. ft. per
person based on gross square footage of unit.

MINIMUM RENTS FOR STATE-AIDED ELDERLY PROJECTS

Effective February 1, 2004

The minimum monthly rents for all tenants of State-aided elderly projects are as follows:

Bedroom Size	Minimum Rent
0 BR	\$160
1 BR	185

Effective February 1, 2005

The minimum monthly rents for all tenants of State-aided elderly projects are as follows:

Bedroom Size	Minimum Rent
0 BR	\$170
1 BR	195